

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**IN RE AIR CARGO SHIPPING SERVICES
ANTITRUST LITIGATION**

MDL No. 1775

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: **Master File 06-MD-1775 (JG)(VVP)**
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: **ALL CASES**
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**DECLARATION OF JAY L. HIMES IN SUPPORT OF PLAINTIFFS'
MOTION FOR AN ORDER DIRECTING AN APPEAL BOND**

I, JAY L. HIMES, state as follows:

1. I am a partner in the firm of Labaton Sucharow LLP and one of the counsel for Plaintiffs.
2. I submit this declaration in support of Plaintiffs' Motion for an Order Directing an Appeal Bond, to be posted by Brickman Concerts, Inc. and I.O.D. Group LLC., (the "Objectors"), who have appealed from this Court's October 6, 2009 Order Approving Lufthansa Settlement Agreement and Entering Final Judgment to the United States Court of Appeals for the Second Circuit.
3. Attached as Exhibit 1 is a true and correct copy of this Court's September 25, 2009 Memorandum and Order in this action.
4. Attached as Exhibit 2 is a true and correct copy of this Court's October 6, 2009 Order Approving Lufthansa Settlement Agreement and Entering Final Judgment in this action.
5. Attached as Exhibit 3 is a true and correct copy of the Objectors' November 2, 2009 Notice of Appeal in this action.
6. Attached as Exhibit 4 is a true and correct copy of the Objectors' Notice of

Intention to Appear and Objection to Proposed Settlement and Request for Attorney's Fees in this action.

7. Attached as Exhibit 5 is a true and correct copy of the Objectors-Appellants' Civil Appeal Pre-Argument Statement in *In re Air Cargo Shipping Services Antitrust Litigation*, Docket No. 09-4813-cv (2d Cir.).

8. Attached as Exhibit 6 is a true and correct copy of Table B-4 from the 2008 *Annual Report of the Director: Judicial Business of the United States Courts* published by the Administrative Office of the United States Courts.

9. Attached as Exhibit 7 is a true and correct copy of the Declaration of Jennifer M. Keough.

10. Attached as Exhibit 8 is a true and correct copy of the March 5, 2007 Memorandum and Order in *Synfuel Techs., LLC v. Airborne Express, Inc.*, No. 02-CV-324-DRH (S.D. Ill.).

11. Attached as Exhibit 9 is a true and correct copy of the August 15, 2007 Final Judgment and Order Approving Settlement in *Synfuel Techs., LLC v. Airborne Express, Inc.*, No. 02-CV-324-DRH (S.D. Ill.).

12. Attached as Exhibit 10 is a true and correct copy of the September 5, 2008 Class Plaintiffs' Report to Court on Negotiations with Objectors in *In re Progressive Corp. Insurance Underwriting & Rating Practices Litigation*, MDL Docket No. 1519 (N.D. Fla.).

13. Attached as Exhibit 11 is a true and correct copy of the October 1, 2008 Order in *In re Progressive Corp. Insurance Underwriting & Rating Practices Litigation*, MDL Docket No. 1519 (N.D. Fla.).

14. Attached as Exhibit 12 is a true and correct copy of Lisa Lerer's October 1, 2004

article, *The Objector*, which appeared in *Litigation* 2004, Supplement to *The American Lawyer* & *Corporate Counsel*.

15. Attached as Exhibit 13 is a true and correct copy of Brian Brueggemann's April 7, 2003 article, *AT&T May Give Charities Phone Cards*, which appeared in the *Belleville News-Democrat*.

16. Attached as Exhibit 14 are true and correct copies of the December 9, 2009 Motion Information Statement and December 10, 2009 Motion to Dismiss Appeal and Supporting Memorandum, filed by Plaintiffs-Appellees in *In re Air Cargo Shipping Services Antitrust Litigation*, Docket No. 09-4813-cv (2d. Cir.).

17. Attached as Exhibit 15 is a true and correct copy of the December 5, 2005 Order Granting Class Plaintiffs' Motion to Require an Appeal Bond in *In re Broadcom Corp. Securities Litigation*, Case No. SACV 01-275 DT (MLGx) (C.D. Cal.).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on December 23, 2009, at New York, New York.



JAY L. HIMES